



MINUTES

Charlotte County Board of Zoning Appeals

Wednesday, February 9, 2022 9:00 a.m. - Room 119

Charlotte County Administration Center

18500 Murdock Circle, Port Charlotte, FL 33948-1094

(These minutes are not official until they have been approved by the Charlotte County Board of Zoning Appeals)

Board Member:

Steve Vieira, Secretary
William Abbatematteo, Vice-Chair (absent)
Larry Fix
Blair McVety, Chair
John Doner

Staff:

Shaun Cullinan, Planning/Zoning Official
Thomas David, Asst. Co. Attorney
Stacy Bjordahl, Asst. Co. Attorney
Elizabeth Nocheck, AICP, Sr. Planner
Diane Clim - Recorder

I. Call to Order

Chair McVety called the February 9, 2022 meeting of the Board of Zoning Appeals to order at 9:00 a.m.

II. Pledge of Allegiance

Chair McVety led the members and the audience in reciting the Pledge of Allegiance.

III. Roll Call

Roll call was taken; a quorum was present.

IV. Swearing In of Those Giving Testimony

Diane Clim swore in all persons who wished to provide testimony.

V. Approval of Minutes

ACTION: A motion was presented by Mr. Fix and seconded by Mr. Vieira to approve the minutes of January 12, 2022 meeting of the Board of Zoning Appeals which passed with a unanimous vote.

VI. Disclosure Statements

Ex-parte forms indicating site visits concerning the petitions being presented before the February 9, 2022 Board of Zoning Appeals meeting were submitted.

VII. Introduction of Staff/Comments

Chair McVety introduced staff. Shaun Cullinan, Planning and Zoning Official, read the Zoning rules, Asst. County Attorney David and Chair McVety made introductory remarks regarding the types of requests that the Board of Zoning Appeals would be reviewing and the standards which must be met, the notification process and how the Board of Zoning Appeals makes its decision.

VIII. Business

The following petitions were advertised on January 25, 2021: SE-21-031, SE-21-033, SE-21-035, VAR-21-010, and VAR-21-011

SE-21-031

Derek Rooney, agent for Charlotte Harbor Water Association, Inc., is requesting a special exception to allow an essential service, consisting of a potable water storage tank, in the Coastal Residential-3.5 (CR-3.5) zoning district. The property is located at **5002 Mystic Street** and **5023 Mill Stream Road**, Port Charlotte, and is described as Lots 8 and 1, Block 31, of the Charlotte Harbor Subdivision, located in Section 36, Township 40 South, Range 22 East.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

Applicant Presentation

Derek Rooney, agent for the applicant, said he was sworn in. **Mr. Rooney** said he agrees with the staff recommendation and staff report. The Charlotte Harbor water association is a non-profit user owned water supplier in Charlotte Harbor. They are in the process of going through a multi-year multi-million dollar upgrade of all of their systems. This facility is intended to replace the 1977 water tank which has reached its end of life. Unfortunately due to the site constraints of that facility, we are unable to construct the replacement facility on the same location. After the feasibility study determined that this location was the available and accessible location, it is most appropriate for the expansion. One issue that may not have been completely clear, in Ms. Nocheck's testimony, which is, this replacement is necessary whether there is future growth from either Sunseeker or Harborview, or the additional empty lots in Charlotte Harbor. It will provide significant upgrades and the most important upgrade is fire service protection. This will be a benefit to the entire community.

Mr. McVety said, her report said there would be no smell. How about noise?

Mr. Rooney said he will ask Scott Baker our superintendent to come up. He was sworn. He can give you a run down of what our current facilities and water tanks sounds and noises are.

Scott Baker, Superintendent said he was sworn in. **Mr. Baker** said the most noise you will ever hear is when the generators kick on. That is on an emergency situation only. They are shrouded in. The way the new generators are, you can put your hand on it and you wouldn't even know it's running. This would only be when the power is out. There may be a very mild hum.

Mr. Fix asked if the fire hydrants are on a separate line than the regular?

Mr. Baker said all hydrants in the State of Florida are part of the potable water system, so they are connected the exact same lines you get drinking water out of. The problem Charlotte Harbor has when we were given the franchise and the potable water agreement with the State of Florida, you were not required to have fire flow back in the 60's. It will keep the same pressure but will give you the volume behind it so when you turn the fire hydrant on, you will have water to fight the fire.

Mr. Doner asked what would be the expected life time of the current tank you say was built in 1977, if you did not get a new tank?

Mr. Baker said it is way past its prime.

Chair McVety opened the meeting to Public Comments.

Public Input

John Everson, who lives on Melbourne Street, said he was sworn in. **Mr. Everson** said he has mixed emotions. Yes it will bring greater water flow to our area, but when? I agree it is needed for Sunseeker new resort, but the cost will be covered by government loan, some impact from Sunseeker and increased utility rates to me, I want to learn more. I know this area floods. If you put this tank which cannot be in a flood zone, how do you expect to raise the tank?

Melissa Lavine, who lives on Farnam Street, said she was sworn in. **Ms. Lavine** said we live right next to where this will be built. She asked about the 6 foot opaque fence, is that what it will be? The staff report says you may vacate Farnam Street in the future. She asked what that means?

Curt Beckman, who owns property in the area, said he was sworn in. **Mr. Beckman** said he had a few questions. He said there is flooding in this area, what about their pumps if they get flooded? Also, security requirements. He understands a municipal water system requires security.

There being no further requests to speak for or against the petition, Mr. Fix moved to close the public comments, seconded by Mr. Doner. The public comments was closed with a unanimous vote.

Rebuttal

Mr. Rooney said regarding the costs, the program that Charlotte Harbor is participating in is the USDA department of agricultures rural water program. Given the demographics of Charlotte Harbor, this allowed them to qualify for up to 50% loan/grant guarantee. If they move through this process, the Federal government will give half of those improvement dollars as a grant. That helps to lower the cost for the public in Charlotte Harbor. The connection costs for Sunseeker, other projects, every project now based on the current rate studies for Charlotte Harbor Water Association has an impact fee and that is based on uses. Whether it's an adjacent project, or a single family home, or a Sunseeker multi-million dollar resort, they will be paying a connection fee based on their intended usage. That goes toward all sorts of capital improvements. (transmission lines or improvements at the facility, it is not necessarily tied to this project). The existing facility has to be taken down and the new facility is going to replace it. With respect to the flood zone, I will have Christian Colorusso from Techtra Tech come up and address those questions. Regarding the fencing, Type B buffer allows an opaque fence or wall. It is the intent, a masonry wall will surround this project. The vacation issue, we looked at vacating part of Farman Street for additional buffers, unfortunately that requires a joint application of both property owners but the owner up north did not want to join in on that application.

Christian Colorusso, who was sworn in, gave his past history. **Mr. Colorusso** said there is a 6 foot concrete wall proposed. As for the security, there will be restricted access. It is not manned, it is monitored. There will be a security system in place. Will there be an elevated structure? We have done technical borings in the area to determine the soil under the tank is adequate, so the only additional elevation would be related to electrical (above the flood plain) then the tank itself, will be designed to prevent buoyancy and flotation with a slight elevation for the concrete pad. Regarding the breach question, there are few measures in place. One is during construction, it is monitored by a resident project engineer. Make sure the tank is being installed adequately. After that, there will be annual testing to check the tank structurally.

Elizabeth Nocheck presented the recommended conditions for the petition.

Board Member Comments and Questions

None

ACTION: A motion was presented by Larry Fix and seconded by John Doner that Petition SE-21-031 be APPROVED based on the Community Development Staff Report dated February 2, 2022, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with six conditions recommended by staff.

Motion was approved with a unanimous vote with the following six conditions:

1. The special exception, as approved by the Board of Zoning Appeals, is to allow an essential service, consisting of a potable water storage tank, booster pump station, and related improvements, and extends only to the lands included in the Site Plans and legal description submitted with this application.
2. The Concept Plan submitted by the applicant, as part of the petition, is for illustrative purposes only. All applicable regulations of County Code shall apply to this development. The applicant shall obtain all necessary permits and approvals as applicable to this development, including but not limited to Site Plan Review, environmental, right-of-way access, vegetation removal, screening, stormwater management, and landscape plan approval.
3. Prior to obtaining a Certificate of Occupancy for the essential service facilities, a "Type B" Landscape Buffer with a six-foot high sight-obscuring fence or wall, shall be constructed and planted around the perimeter of the property along the north, south, east, and west property lines. Chain link fencing is not permitted.
4. Access to the site shall be provided from Farnam Street.
5. This Special Exception is granted for a term of five years from the date of approval from the Board of Zoning Appeals; however, the Special Exception shall not expire if the owner commences the proposed development on or before the Special Exception's term expires.
6. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions, such as accessory uses or structures, may be approved by the Zoning Official.

SE-21-033

Travis Ridge, agent for Ridge & Sons Construction Inc., is requesting a special exception to exceed the maximum of 3,000-square feet of accessory structures to allow a 4,200-square foot detached garage, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at **9405 Nastrand Circle**, Port Charlotte, and is described as Lots 13, 14, & 15, Block 4368, of the Port Charlotte Subdivision, Section 71, located in Section 21, Township 41 South, Range 21 East.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

Applicant Presentation

Mitch Ebby, agent for the applicant, said he was sworn in. **Mr. Ebby** said Mr. Ridge is approaching retirement, this has been transferred over to his son. They will make the garage the same color to match the house. They do have a business building over by Enterprise Drive, so this garage will have his personal items, vehicles in it.

Chair McVety opened the meeting to Public Comments.

Public Input

Chester Pastuszynski, who lives on Nastrand, said he was sworn in. He owns 3 properties on Nastrand. He brought in copies of a petition signed by 45 neighbors in the area. Most are against this because of the size of the building. We question the large commercial overhead doors. He said the large doors do not fit in with the neighborhood. This is a second accessory item. There is an 1800 sf pool, now this large building. We are also concerned about him entering the site through a vacant lot behind him. He handed in photos of large trucks and construction vehicles in his yard. We are concerned about safety issues in this area. If he wants to downsize the garage, we would not have these issues.

Gerry Tidwell, who lives in the area, was sworn in. **Mr. Tidwell** said he read the criteria and zoning rules and he thinks maybe the applicant should have a variance. He said the other garages in South Gulf Cove look more like the average garage. There are no garages this large. This is more like a warehouse. He said there are 2 junk cars by the pool and they have been there for years. If you allow this size garage, most people in the future will want one this size too.

Ben Ernst, who lives in the area, was sworn in. **Mr. Ernst** said he is the owner of the garage that was referenced at Keystone and Nastrand. My garage walls are 9 foot tall, and they are that tall so the gutter line matches my home. The garage looks like my home. One garage door. The whole garage is 1400 s.f. He also feels this large garage is too big for this single family home area. He is against this request.

Angelo Sigismondo, who lives in the area, was sworn in. **Mr. Sigismondo** said he is across the street. He said there have been times when his friends or family, crossed over his yard in the back to get to the yard with this request. He said the 2 cars by the pool do not have plates and they have been there for years. He said the owner is putting a garage door on the back. Looks like he might be leaving out the back yard also.

Lorraine Quirk, who lives in the area, was sworn in. **Ms. Quirk** said most of us bought here for safety and quiet. Many are retired. We are concerned if this might be turned into commercial.

Anita Sweetman, who lives in the area, was sworn in. **Ms. Sweetman** said she is also concerned about the size of this structure. It looks commercial.

Kathyann Pastuszynski, who lives in the area, was sworn in. **Ms. Pastuszynski** said she wanted to thank the neighbor for blowing his horn this morning at 4:23 a.m. and 5:23 a.m. She walks the neighborhood and is concerned about more commercial traffic in the area if this is approved.

Joann Belviso, who lives in the area, was sworn in. Ms. Belviso said when we purchased our house, I came here because this area reminded me of my roots. She feels there is a lot of commercial property in South Gulf Cove and we do not need this in the neighborhood. She said this needs to be approved by our Homeowners Association. She is not sure if he did that yet.

There being no further requests to speak for or against the petition, Mr. Fix moved to close the public comments, seconded by Mr. Doner. The public comments was closed with a unanimous vote.

Board Member Comments and Questions

Mr. McVety said when you see an empty lot in your neighborhood, you should know eventually someone will build something on it. If you are concerned about property values, you should bring expert witnesses to be able to tell us that. Otherwise, it's hearsay.

Rebuttal

Travis Ridge, son of the property owner, said he was sworn in. Mr. Ridge said the garage is for his father. He said he was with the guy who pulled in the back lot and dropped off the concrete blocks. He said they are for the garage. After the garage is built, we will not enter through the back lot. He doesn't come home every day during work. He might have stopped that one time working close to home, maybe to use the bathroom. He is trying to get everything out of the yard and into the garage. They have a commercial building on Enterprise Drive and my father will not be bringing home work trucks.

Mr. Ebby said he wanted to add a comment about concrete wash out. He said he is a superintendent for Truex construction and they do a lot of our work. There is never any concrete that is washed out that is not on the construction site.

Shaun Cullinan, Planning and Zoning Official, said regarding the F450 truck which is shown in the picture supplied by the neighbor, those trucks are not allowed in the neighborhood. You cannot have anything larger than an F350. It is a zoning violation.

Elizabeth Nocheck presented the recommended conditions for the petition.

ACTION: A motion was presented by Larry Fix that Petition SE-21-033 be APPROVED based on the Community Development Staff Report dated February 2, 2022, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with 10 conditions recommended by staff. There was No Second. Motion died.

A motion was presented by Steve Vieira and seconded by John Doner that Petition SE-21-033 be DENIED based on the Community Development Staff Report dated February 2, 2022, the evidence and testimony presented at the hearing and finding that the applicant HAS NOT MET the required criteria for the granting of the Special Exception.

Motion was denied with a tie vote (Mr. Vieira and Mr. Doner voted to deny the petition, Mr. Fix and Mr. McVety voted against the denial) Motion failed with a 2 to 2 vote

VAR-21-010

Calvin Trout is requesting a variance to reduce the required 20-foot rear yard setback by 15 feet to allow a 5-foot rear yard setback, to allow an existing single-family residence to remain “as-is”, in the Residential Single-family-5 (RSF-5) zoning district. The property is located at **8519 Heister Street**, Punta Gorda, and is described as Lots 9 & 10, Block 4, of the Shell Creek Heights Subdivision, located in Section 25, Township 40 South, Range 23 East.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

Applicant Presentation

Calvin Trout, applicant, said he was sworn in. **Mr. Trout** said agrees with the staff report and will answer any questions.

Chair McVety opened the meeting to Public Comments.

Public Input

No one spoke for or against this request.

There being no further requests to speak for or against the petition, Mr. Fix moved to close the public comments, seconded by Mr. Vieira. The public comments was closed with a unanimous vote.

Board Member Comments and Questions

None

ACTION: A motion was presented by Larry Fix and seconded by Steve Vieira that Petition VAR-21-010 be APPROVED based on the Community Development Staff Report dated January 5, 2022, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Variance with three conditions recommended by staff.

Motion was approved with a unanimous vote with the following three conditions:

1. The variance, as approved by the Board of Zoning Appeals, is to reduce the required 20-foot rear yard setback by 15 feet to allow a 5-foot rear yard setback, to allow an existing single-family residence to remain “as-is”.
2. The variance shall only apply to the existing single-family residence, as shown in the documents submitted with this application.
3. If the existing single-family residence is removed or replaced, this variance shall expire and all future development must be constructed according to all applicable codes in existence at that time, unless a new variance is granted specific to the development proposed at that time. This condition shall not apply to removal or replacement caused by a natural disaster or involuntary destruction of the existing single-family residence.

SE-21-035

Norman Cardinale is requesting a special exception to allow the outdoor storage of vehicles, including commercial vehicles, recreational vehicles, boats, and trailers, in the Commercial General (CG) zoning district. The property is located at **12229 & 12249 Tamiami Trail**, Punta Gorda, and is described as Lots 11, 12, 13, 14, & 15, Block 146, of the Tropical Gulf Acres Subdivision, Unit 8, located in Section 2, Township 42 South, Range 23 East.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

Applicant Presentation

Norman Cardinale, applicant, said he was sworn in. **Mr. Cardinale** said he agrees with the staff report and will answer any questions. He would like to build this in 2 phases if acceptable.

Chair McVety opened the meeting to Public Comments.

Public In

No one spoke for or against this request.

There being no further requests to speak for or against the petition, Mr. Fix moved to close the public comments, seconded by Mr. Vieira. The public comments was closed with a unanimous vote.

Elizabeth Nocheck presented the recommended conditions for the petition.

Board Member Comments and Questions

ACTION: A motion was presented by Larry Fix and seconded by John Doner that Petition SE-21-035 be APPROVED based on the Community Development Staff Report dated February 2, 2022, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Special Exception with nine conditions recommended by staff.

Motion was approved with a unanimous vote with the following nine conditions:

1. The special exception, as approved by the Board of Zoning Appeals, is to allow the outdoor storage of commercial vehicles, recreational vehicles, boats, and trailers, and extends only to the lands included in the Site Plans and legal description submitted with this application.
2. The Concept Plans submitted by the applicant, as part of the petition, are for illustrative purposes only. All applicable regulations of County Code shall apply to this development. The applicant shall obtain all necessary permits and approvals as applicable to this development, including but not limited to Site Plan Review, right-of-way access, vegetation removal, fencing, stormwater management, and landscape plan approval.
3. Storage of commercial vehicles shall be limited to work trucks, trailers, and vans.

4. Outdoor storage of construction equipment, materials, or debris, heavy machinery, or hazardous materials is prohibited.
5. Prior to using the site for outdoor storage for Phase I, a "Type D" landscape buffer with a six-foot-tall sight-obscuring fence or wall shall be constructed and planted around the perimeter of the outdoor storage area. Phase I shall be limited to Lot 11 as shown on the Concept Plans submitted by the applicant.
6. Prior to using the site for outdoor storage for Phase II, a "Type D" landscape buffer with a six-foot-tall sight-obscuring fence or wall shall be constructed and planted around the perimeter of the outdoor storage area.
7. The use of chain link fencing is not permitted as part of the required buffers.
8. This Special Exception is granted for a term of three years from the date of approval from the Board of Zoning Appeals; however, the Special Exception shall not expire if the owner commences the proposed development on or before the Special Exception's term expires.
9. Any major changes or additions to this special exception shall require a modification of the special exception. Minor changes or additions, such as accessory uses or structures, may be approved by the Zoning Official.

VAR-21-011

Jennifer Williams, agent for Maronda Homes LLC of Florida, is requesting a variance to reduce the required 15-foot rear yard setback by 3 feet to allow a 12-foot rear yard setback, to allow a new single-family residence, in the Residential Single-family-3.5 (RSF-3.5) zoning district. The property is located at **25171 Doredo Drive**, Punta Gorda, and is described as Lot 11, Block 302, of the Punta Gorda Isles Subdivision, Section 16, located in Section 29, Township 42 South, Range 23 East.

Elizabeth Nocheck read into the record the staff report and staff findings for the petition.

Mr. Cullinan said if a future property owner would like a pool, it cannot go in the back, but it can go on the side. Based on the slope of the easement it may not be able to be squared off with the rear of the house depending on how far out it is.

Applicant Presentation

Michael Kruszynski, said he is the division president for Maronda Homes. He is representing the applicant, and said he was sworn in. **Mr. Kruszynski** said originally the future home owner picked a larger home, but there was more of an encroachment. We showed them a little smaller home which encroached less.

Chair McVety opened the meeting to Public Comments.

Public Input

No one spoke for or against this request.

There being no further requests to speak for or against the petition, Mr. Fix moved to close the public comments, seconded by Mr. Vieira. The public comments was closed with a unanimous vote.

Elizabeth Nocheck presented the recommended conditions for the petition.

Board Member Comments and Questions

None

ACTION: A motion was presented by Larry Fix and seconded by John Doner that Petition VAR-21-011 be APPROVED based on the Community Development Staff Report dated February 2, 2022, the evidence and testimony presented at the hearing and finding that the applicant HAS MET the required criteria for the granting of the Variance with four conditions recommended by staff.

Motion was approved with a unanimous vote with the following four conditions:

1. The variance, as approved by the Board of Zoning Appeals, is to reduce the required 15-foot rear yard setback by 3 feet to allow a 12-foot rear yard setback, to allow a new single-family residence.
2. The variance shall only apply to the proposed single-family residence, as shown in the documents submitted with this application.
3. This variance is granted for a term of three (3) years from the date it receives approval from the Board of Zoning Appeals; however, the variance shall not expire if the owner commences the proposed development on or before the variance's term expires.
4. If the single-family residence is removed or replaced, this variance shall expire and all future development must be constructed according to all applicable codes in existence at that time, unless a new variance is granted specific to the development proposed at that time. This condition shall not apply to removal or replacement caused by a natural disaster or involuntary destruction of the single-family residence.

Election of Officers:

- **Chair**
- **Vice-Chair**
- **Secretary**

Mr. Fix moved to nominate Mr. McVety for Chair, seconded by Mr. Vieira with a unanimous vote.

Mr. Vieira moved to nominate Mr. Abbatematteo for Vice-Chair, seconded by Mr. Fix, with a unanimous vote.

Mr. Fix moved to nominate Mr. Vieira for Secretary, seconded by Mr. Doner with a unanimous vote.

IX. **Public Comments –**
None

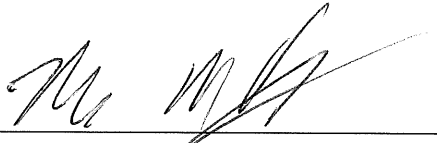
X. **Staff Comments –**
Ms. Nocheck said we have 3 petitions for the March meeting.

XI. **Member Comments –**
None

XII. **Next Meeting**
*The next meeting of the Board of Zoning Appeals is scheduled for **Wednesday, March 9, 2022 at 9:00 a.m., in Room 119.***

There being no further business, the meeting **ADJOURNED** at 12:02 p.m.

Respectfully submitted,
Diane Clim, Recorder
/dlc



Blair McVety, Chair
Approval Date: 3-9-22